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Anthony Edw. J. Campbell
PO Box 160370
Austin TX 78716-0370

COPY MAILED

MAY 21 2007

OFFICE OF PETITIONS

In re Application of :
Lesch Jr. et al. :
Application No. 10/603,235 :
Filed: June 24, 2003 :
Attorney Docket No. NWK1581 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed November 6, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." ¹ Extensions of time under 37 CFR 1.136(a) are permitted. No additional fee is required for filing a "Renewed Petition under 37 CFR 1.137(a)."

On June 28, 2005, the Office mailed a Corrected Notice of Allowance and Fee(s) Due and Notice of Allowability, (hereinafter "Notice of Allowance") which set a three-month statutory period for reply. The Notice of Allowance indicated that applicant must pay a \$700.00 issue fee by September 28, 2005, to avoid abandonment. In the absence of a timely filed reply, the application became abandoned on September 29, 2005. A Notice of Abandonment was mailed on May 26, 2006.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed.
- (2) The petition fee as set forth in 37 CFR 1.17(l);

¹ In the alternative, applicant may file a petition under 37 CFR 1.137(b) accompanied by the required petition fee.

(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

This petition lacks items (1) and (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable". Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.²

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).³ Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.⁴

As to requirement (1):

In an application lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. Although applicant stated that the \$700.00 issue fee accompanied the present petition, the payment was not

² In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

³ See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

⁴ Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

received. Therefore, petitioner has failed to submit the required reply to the outstanding Notice of Allowance. A copy of the Notice accompanies this decision for petitioner's convenience. With any renewed petition to revive, applicant must submit the issue fee.

As to requirement (3):

Applicant asserted that the delay was unavoidable due to non-receipt of the Notice of Allowance mailed on June 28, 2005. Applicant stated that prior to the filing of the application, counsel relocated and updated the customer number to reflect the new address. The Office notes that the Notice of Allowance was returned to the Office with an indication on the envelope to "RETURN TO SENDER NOT DELIVERABLE AS ADDRESSES UNABLE TO FORWARD." The Office further notes that the declaration and transmittal letter submitted on filing included the Customer Number 30245, as well as the typed correspondence address of 6721 Northridge Drive, Dallas, Texas 75214-3156.

Applicant bears the burden of establishing that a timely change of correspondence address was submitted with the Office. A review of the USPTO records indicates that a change of the correspondence address was entered by the USPTO on June 14, 2006, after the mail date of the Notice of Allowance. Therefore, it appears that the Notice was mailed to the address of record, as it existed on June 28, 2005. Although applicant asserts that counsel's correspondence address was updated, applicant did not provide any documentary evidence to demonstrate that applicant changed the correspondence address associated with Customer No. 30245 to PO Box 160370, Austin TX 78716-0370. Examples of documentary evidence that would support such a showing are: (1) a "Request for Customer Number Data Change" (PTO /SB /124), requesting a change in the correspondence address associated with Customer No. 30245; (2) a "Change of Correspondence Address, Application" (PTO /SB /122), changing the correspondence address of this application to the address associated with Customer No. 30245; or (3) a request submitted electronically via a computer-readable diskette to change the correspondence address of this application to the address associated with Customer No. 30245.

The record does not support a showing that applicant promptly notify the Office of the change of correspondence address. Accordingly, applicant has failed to demonstrate that the delay in paying the issue fee was unavoidable due to non-receipt of the Notice of Allowance.

The Office reminds applicant that a belated notification to the USPTO of a change of correspondence address does not constitute proper notification as to establish unavoidable delay. An applicant is responsible for promptly informing the Office of any change of address. Furthermore, the Office notes that where an application becomes abandoned as a consequence of a change of correspondence address an adequate showing of "unavoidable" delay requires a showing that applicant exercised due care to promptly notify the Office of the change of address and file a timely notification of the change of address in the application at hand.⁵ Furthermore, a delay

⁵ MPEP 711.03(c)(III)(C)(2)

resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.⁶

Because applicant did not provide a sufficient showing that the delay was unavoidable within the meaning of 35 USC § 151 and 37 CFR 1.137(a), the petition is **dismissed**. In any renewed petition under 37 CFR 1.137(a), applicant must submit documentary evidence to support a showing of unavoidable delay.

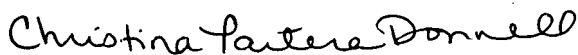
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.



Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures

⁶ See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987); Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).



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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/603,235 | 06/24/2003 | James A. Lesch JR. | NWK1581 | 5606 |

7590 05/26/2006

Anthony Edw. J Campbell
6721 Northridge Drive
Dallas, TX 75214-3156

| | |
|--------------------|--|
| EXAMINER | |
| BRINSON, PATRICK F | |

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
| 3754 | |

DATE MAILED: 05/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment

Application No.

10/603,235

Examiner

BRINSON, PATRICK F

Applicant(s)

James A. Lesch JR.

Art Unit

3754

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address–

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☒ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

AG

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



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**CORRECTED
NOTICE OF ALLOWANCE AND FEE(S) DUE**

7590

06/28/2005

Anthony Edw. J Campbell
6721 Northridge Drive
Dallas, TX 75214-3156

EXAMINER

BRINSON, PATRICK F

ART UNIT

PAPER NUMBER

3754

DATE MAILED: 06/28/2005

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/603,235 | 06/24/2003 | James A. Lesch JR. | NWK1581 | 5606 |

TITLE OF INVENTION: INSULATED PIPE CONCEALER

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE | PUBLICATION FEE | TOTAL FEE(S) DUE | DATE DUE |
|----------------|--------------|-----------|-----------------|------------------|------------|
| nonprovisional | YES | \$700 | \$0 | \$700 | 09/28/2005 |

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 06/28/2005

Anthony Edw. J Campbell
6721 Northridge Drive
Dallas, TX 75214-3156

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below.

| |
|--------------------|
| (Depositor's name) |
| (Signature) |
| (Date) |

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/603,235 | 06/24/2003 | James A. Lesch JR. | NWK1581 | 5606 |

TITLE OF INVENTION: INSULATED PIPE CONCEALER

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE | PUBLICATION FEE | TOTAL FEE(S) DUE | DATE DUE |
|----------------|--------------|-----------|-----------------|------------------|------------|
| nonprovisional | YES | \$700 | \$0 | \$700 | 09/28/2005 |

| EXAMINER | ART UNIT | CLASS-SUBCLASS |
|--------------------|----------|----------------|
| BRINSON, PATRICK F | 3754 | 138-149000 |

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above. NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____

Date _____

Typed or printed name _____

Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/603,235 | 06/24/2003 | James A. Lesch JR. | NWK1581 | 5606 |
| 7590 06/28/2005 | | | EXAMINER | |
| Anthony Edw. J Campbell 6721 Northridge Drive Dallas, TX 75214-3156 | | | BRINSON, PATRICK F | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3754 | |

DATE MAILED: 06/28/2005

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

Notice of Allowability

Application No.

10/803,235

Applicant(s)

LESCH ET AL

Examiner

Patrick F. Brinson

Art Unit

3754

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address—

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to phone conversation of January 3, 2005.
2. ☒ The allowed claim(s) is/are 1-8 and 8-20.
3. ☒ The drawings filed on 24 June 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Applicant's attorney, **Mr. Anthony Campbell** on Monday, January 3, 2005.

The application has been amended as follows:


In the Claims:

Claim 10, line 1, change "10" to "1", claim 12, line 1, change "13" to "1".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (571) 272-4897. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Michael Y. Mar** can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Patrick F. Brinson
Primary Examiner
Art Unit 3754

P. F. Brinson
January 6, 2005